

ASSEMBLY BILL

No. 299

Introduced by Assembly Member Eng

February 9, 2011

An act to amend Section 22400 of the Financial Code, relating to finance lenders.

LEGISLATIVE COUNSEL'S DIGEST

AB 299, as introduced, Eng. Finance lenders: consumer loans.

Existing law, the California Finance Lenders Law, provides for the licensure and regulation of finance lenders and brokers by the Department of Financial Institutions. Existing law provides for the regulation of consumer loans, as defined. Existing law provides for the regulation of precomputed charges with regard to loan contracts payable in monthly installments, as specified.

This bill would make a technical, nonsubstantive change to that provision.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 22400 of the Financial Code is amended
2 to read:
3 22400. This article applies only to loan contracts payable in
4 substantially equal and consecutive monthly installments of
5 principal and charges combined, the first of which is due not less
6 than 15 days nor more than one month and 15 days from the date
7 the loan is made. In lieu of computing charges and applying

1 payments as provided in Section 22307, a licensee may precompute
2 charges and apply payments as follows:

3 (a) The total charges ~~which~~ *that* would be earned if the contract
4 were repaid exactly according to its terms, at the monthly rate
5 stated in the contract, may be precomputed when the loan is made
6 and added to the principal of the loan. For the purpose of
7 computation, a month shall be that period of time from any date
8 in one month to the corresponding date in the next month, and if
9 there is no corresponding date, then to the last day of the next
10 month. The principal amount of the loan shall be its face value as
11 referred to in Section 22309. Every payment may be applied to
12 the combined total of principal and precomputed charges until the
13 contract is fully paid. The acceptance of payment of charges on
14 loans made under the provisions of this article shall not be deemed
15 to constitute payment deduction or receipt thereof in advance nor
16 compounding under Section 22309. Precomputed charges shall be
17 subject to the following adjustments:

18 (1) The portion of the precomputed charge applicable to any
19 particular monthly installment period shall bear the same ratio to
20 the total precomputed charge, excluding any adjustment made for
21 a first period of more than one month, as the balance scheduled to
22 be outstanding during that monthly period bears to the sum of all
23 monthly balances scheduled originally by the loan contract.

24 (2) If the loan contract is paid in full by cash, a new loan,
25 refinancing, or otherwise, the borrower shall receive a rebate of
26 that portion of the precomputed charge that is the difference
27 between the total precomputed charge and the charges at the
28 contract rate computed in accordance with the provisions of Section
29 22307 or 22308. The tender, by the borrower or at his or her
30 request, of an amount equal to the unpaid balance, less the required
31 rebate, must be accepted by the licensee in full payment of the
32 contract.

33 (3) If three or more, but not all, installments are prepaid in full
34 at any one time, all of the prior charges for the loan shall be
35 recalculated and all subsequent charges for the remaining term of
36 the loan shall be recalculated by applying each payment first to
37 charges and the remainder to principal in accordance with the
38 provisions of Section 22307 or 22308.

39 (4) If the payment date of all wholly unpaid installments on
40 which no default charge has been collected is deferred one or more

1 full months and the contract so provides, the licensee may charge
 2 and collect a deferment charge. The deferment charge shall not
 3 exceed the portion of the precomputed charge applicable prior to
 4 deferment, to the first deferred monthly installment period
 5 multiplied by the number of months the maturity of the contract
 6 is deferred. The number of months shall not exceed the number
 7 of full installments that are in default on the date of deferment or
 8 that may become due within 15 days of that date. When a
 9 deferment charge is made, no portion of the precomputed charge
 10 shall apply to the installment periods in which no installment
 11 payment is required by reason of the deferment. In computing any
 12 default charge or required rebate, the portion of the precomputed
 13 charge applicable to each deferred balance and installment period
 14 following the deferment period and prior to the deferred maturity
 15 shall remain the same as that applicable to the balances and periods
 16 under the original loan contract. The charge may be collected at
 17 the time of deferment or at any time thereafter. Any payment
 18 received at the time of deferment may be applied first to the
 19 deferment charge and the remainder, if any, applied to the unpaid
 20 balance of the contract. However, if the payment is sufficient to
 21 pay, in addition to the appropriate deferment charge, any
 22 installment that is in default and the applicable default charge, it
 23 shall be first so applied and any such installment shall not be
 24 deferred nor subject to the deferment charge.

25 (5) In the event of default of more than 10 days in the payment
 26 of one-half or more of any scheduled installment, the licensee may
 27 charge and collect a default charge not exceeding an amount equal
 28 to the portion of the precomputed charge applicable to the final
 29 installment period. The charge may not be collected more than
 30 once for the same default and may be collected at the time of the
 31 default or at any time thereafter. If the default charge is deducted
 32 from any payment received after default occurs, and the deduction
 33 results in the default of a subsequent installment, no charge may
 34 be made for the resulting default.

35 (6) A borrower and licensee may agree that the first installment
 36 due date may be not more than 15 days more than one month and
 37 the amount of the installment may be increased by one-thirtieth
 38 of the portion of the precomputed charge applicable to a first
 39 installment of one month for each extra day.

- 1 (b) The statement to be given to the borrower as provided in
2 subdivision (a) of Section 22337 and the contract shall disclose in
3 addition to other required information the principal amount of the
4 loan exclusive of charges and the basis for computing the refund
5 of precomputed charges in case of prepayment in full or
6 acceleration of maturity and for computing default and deferment
7 charges. The delivery of a receipt of each payment showing the
8 total amount of each payment complies with subdivision (d) of
9 Section 22337.
- 10 (c) If the maturity of the contract when the charges are
11 precomputed is accelerated for any reason, the licensee shall make
12 the same refund or credit as would be required if the contract was
13 paid in full on the date of acceleration. The unpaid balance shall
14 be treated as the unpaid principal balance, and thereafter the unpaid
15 balance of the contract shall bear charges at the agreed rate of
16 charge if the loan contract so provides.